



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Ecology AO # 09-09

- ☒ **Preproposal Statement of Inquiry was filed as WSR 09-19-076 ; or**
☐ **Expedited Rule Making--Proposed notice was filed as WSR _____; or**
☐ **Proposal is exempt under RCW 34.05.310(4).**

- ☒ **Original Notice**
☐ **Supplemental Notice to WSR _____**
☐ **Continuance of WSR _____**

Title of rule and other identifying information: (Describe Subject)

Chapter 173-50 WAC, Accreditation of Environmental Laboratories

The amendments will change the fee structure of Ecology's Environmental Laboratory Accreditation Program and some business practices to reflect a cut in the program budget. There will also be housekeeping amendments and clarification of the grounds for revoking or suspending accreditation.

Hearing location(s):

#1 - Lacey Community Center, 6729 Pacific Avenue, Lacey
April 27, 2010 at 1:00 PM

#2 - Moses Lake Fire Department, 701 E Third Avenue, Moses Lake
April 29, 2010 at 10:00 AM

Submit written comments to:

Name: Stewart M. Lombard
Address: PO Box 488
Manchester, WA 98353-0488
e-mail stew.lombard@ecy.wa.gov
fax (360) 895-6180 by (date) May 7, 2010

Assistance for persons with disabilities: Contact

Joan LeTourneau (360) 407-6764 by April 20, 2010

Persons with hearing loss, call 711 for Washington Relay Service. Persons with a speech disability, call 877-833-6341.

Date of intended adoption: August 6, 2010

(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

Our current fee structure does not cover the cost of the State Environmental Laboratory Accreditation Program. In Section 301 of ESHB 1244, the 2009 Legislature authorized Ecology to increase fees in the 2009-2011 biennium as necessary to meet the actual costs of conducting business. We have eliminated one chemist position and need to raise fees by about 45% to fully fund the remaining program. With the loss of one of our six chemists, we will also need to change some business practices specified in the rule. Specifically, Ecology will reduce the frequency of on-site inspections at non-drinking water laboratories, but increase proficiency testing requirements for some of these labs. Without these changes, we cannot cover the cost of the program and will not meet the requirements of the current rule. *(continued as attachment A)*

Statutory authority for adoption: RCW 43.21A.230 allows Ecology to accredit environmental laboratories and to assess fees to cover the Department's costs. The State Department of Health (DOH) has delegated to Ecology in a memorandum of understanding its RCW 43.20.050 authority to certify drinking water laboratories. In Section 301 of ESHB 1244, the 2009 Legislature gave Ecology authority to raise fees for lab accreditation.

Statute being implemented: RCW 43.21A.230 allows Ecology to accredit environmental laboratories and to assess fees to cover the Department's costs. The State Department of Health (DOH) has delegated to Ecology in a memorandum of understanding its RCW 43.20.050 authority to certify drinking water laboratories. In Section 301 of ESHB 1244, the 2009 Legislature gave Ecology authority to raise fees for lab accreditation.

Is rule necessary because of a:

- Federal Law? ☐ Yes ☒ No
Federal Court Decision? ☐ Yes ☒ No
State Court Decision? ☐ Yes ☒ No
If yes, CITATION:

DATE 3/24/10

NAME (type or print) Polly Zehm

SIGNATURE *Polly Zehm*

TITLE Deputy Director
Washington State Department of Ecology

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: March 24, 2010

TIME: 10:46 AM

WSR 10-07-163

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Not applicable.

Name of proponent: (person or organization)

Washington Department of Ecology

- ☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Stewart M. Lombard	2350 Colchester Dr., PO Box 488 Manchester, WA 98353-0488	(360) 895-6148
Implementation.....Stewart M. Lombard	2350 Colchester Dr., PO Box 488 Manchester, WA 98353-0488	(360) 895-6148
Enforcement..... Stewart M. Lombard	2350 Colchester Dr., PO Box 488 Manchester, WA 98353-0488	(360) 895-6148

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☒ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name: Stewart M. Lombard
Address: PO Box 488
Manchester, WA 98353-0488

phone (360) 895-6148
fax (360) 895-6180
e-mail stew.lombard@ecy.wa.gov

☐ No. Explain why no statement was prepared.

Is a cost-benefit analysis required under RCW 34.05.328?

☒ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Stewart M. Lombard
Address: PO Box 488
Manchester, WA 98353-0488

phone (360) 895-6148
fax (360) 895-6180
e-mail stew.lombard@ecy.wa.gov

☐ No: Please explain:

This proposal will result in an increase in the annual fees we charge environmental laboratories for the accreditation necessary for them to report results to the Department of Ecology, Department of Health, and other entities which require the use of accredited laboratories. The proposal also relaxes the requirement for on-site inspections of non-drinking water laboratories, but increases proficiency testing requirements for some of these labs to help them remain in compliance with the rule.

Reasons supporting proposal:

1. Legislative authorization to increase fees to meet the costs of conducting business.
2. Budget reduction in existing program mandates changes to current business practices, including reduced on-site inspection frequencies and increased proficiency testing requirements.
3. Need to clarify rule enforcement provisions and also the grounds for revoking or suspending accreditation.
4. Need to eliminate reciprocity agreements with other states, and also eliminate exemption provisions for certain wastewater discharge laboratories.
5. Housekeeping amendments are needed to bring the rule up to date and clarify the definition of some rule language.